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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/827,015

04/19/2004

Steven Leo Company

2524

7590

12/15/2006

Steven Leo Company
3413 Tuscany Way
Boynton Beach, FL 33435

EXAMINER

ISSING, GREGORY C

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,015

Applicant(s)

COMPANY, STEVEN LEO

Examiner

Gregory C. Issing

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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1. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the text is replete with grammatical errors including the capitalization of words within a sentence even though they do not represent proper nouns; the incorrect spacing on either side of a comma; and, the lack of sentences, for example, the Background of the invention is not a complete thought.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The application fails to provide an enabling disclosure; the claims are directed to software, however, no adequate description nor any drawings are provided to enable such software. The claims are directed simply to "software" having an intended use and thus meets the scope of all software, none of which is described by the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-4, the language "an software" is grammatically incorrect. The claim language is also grammatically improper for the use of capitalization in the middle of a sentence, e.g. "to The server" and "request is the Data of singles".

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In claim 1, it is not clear what the scope of the claim is since it appears to simply read on software; that the software is "useful in a mobil(e) device" does not provide any limitations to the software. Furthermore, remaining claim language is directed to the mobile device of which the software is useful with and does not provide any limitative value to the software. "Mobile" is misspelled.

Claim 2 is indefinite since "the user", "The server", and "their actual positions" lack proper antecedent bases. It is unclear how the "user" is related to the "software" so as to send a request. The parenthetical expression "(yards or miles)" is indefinite since it is not clear if this defines descriptive material. It is unclear what is meant by "gap of age".

Claim 3 is indefinite due to its grammatical errors and fails to represent a complete thought. The phrases "all the data" and "their actual position" lack proper antecedent bases. Due to the in clarity of the claim language, it is unclear if this represents a separate invention.

Claim 4 is indefinite due the lack of antecedent basis for "the return of the request" and "the Data of singles in the area".

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention, which is simply "software" having an intended use would impermissibly cover every substantial practical application of, and thereby preempt all use of, an abstract idea, natural phenomenon, or law of nature. It is not clear what statutory class of invention the applicant is attempting to cover.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka.

9. Tanaka (6,819,919) discloses a method and service for introducing mobile users including mobile unit 2 having a connection with a positional data source 1, such as a GPS receiver, and a connection via the Internet 4 to a server 5 having a profile database 6. A mobile user's request includes the transmission of the user's geographic position as well as a search radius defining a proximity value.

10. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Mayer.

11. Mayer (2004/0122810) discloses a system and method for searching, finding, and contacting dates on the Internet wherein each mobile device includes a connection to the Internet as well as may include information regarding geographical area or some relative distance compared to the user [0063] which may be had via a GPS enabled phone [0073].

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lovison et al (2004/0220922) disclose a system and method of using a wireless device as a tool to identify people within the same geographic area having similar interests and suggests the use to facilitate dating [0008]. Each of a wireless device (100-103) and server (300) include a software program for connectivity [0021]-[0022].

13. Piccionelli et al (2004/0010608) discloses a remote dating method including mobile devices capable of providing location information.


14. Fraccaroli (6,549,768) discloses a mobile communications matching system that defines user profiles which are used to connect mobile users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory C. Issing
Primary Examiner
Art Unit 3662

gci